

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SUPERIOR COURT - MIDDLESEX COUNTY - LOWELL

NATALIE ANDERSON,
Plaintiff,

v.

RESIDENCE INN NASHUA (DBA FOR NASHUA
TS LODGING LLC) ET AL
Defendants.

CASE #: 2081CV02957

**MOTION & AFFIDAVIT TO ENTER DEFAULT AGAINST DEFENDANT JENNIFER
BROOKS**

1. The plaintiff hereby moves the clerk of the court, pursuant to Rule 55(a) to enter default against Defendant Jennifer Brooks in this case for failure to file an answer or to respond to the summons and complaint.
2. In furtherance of this, the plaintiff hereby depose and saith under oath, under the pains and penalties of perjury, and provides the below affidavit as part of this motion, as follows:
3. On 8-9-22, the court ordered that, in order to effect service of process, the plaintiff is allowed to provide the summons and complaint to the clerk (by 8-31-22) and that the clerk shall mail the summons and complaint to the out-of-state defendants. See screenshot below:

Case Details - Massachusetts Trial Court

masscourts.org/eservices/search.page?x=EmCb0e2uE2yGCLU83xfiZLKuJa37sd2s4iy0WFNBpX*sVybZx9JJRN7z1ES1s74laKEe5upsvrWQ-V*KjQ

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2081CV02957 Anderson, Natalie vs. Residence Inn Nashua Doing Business as Nashua TS Lodging LLC et al

Amanda Rowan, Assistant Clerk Magistrate
FTR, Monitor

Date	Description	Page	Image
04/29/2022	ORDER: Re Paper #12- Plaintiff's Motion to Vacate Dismissal and order re filing of amended complaint and service of summons and amended complaint	28	Image
04/29/2022	Amended: amended complaint filed by Natalie Anderson adding True North Hotel Group and Marriott International, Inc., and DBA of Residence Inn	29	Image
04/29/2022	Endorsement on Request for Fee waiver (#11.0): ALLOWED		
06/03/2022	Docket Note: 4 summonses forwarded to plaintiff		
06/27/2022	Notice of docket entry received from Appeals Court Please take note that, with respect to the Motion for voluntary dismissal of appeal based on resolution of lower court case filed by Natalie Anderson. (Paper #11), on June 27, 2022, the following order was entered on the docket: REB 11: The stay of appellate proceedings is vacated. Appeal dismissed with prejudice and without an award of costs or fees to any party, pursuant to M.R.A.P. 29(b).	30	Image
07/26/2022	Affidavit of Indigency and request for waiver substitution of state payment of fees and costs filed without Supplemental affidavit (IMPOUNDED)	31	
08/09/2022	Endorsement on Application (P#31 - Affidavit of Indigency) - 1. The Court finds indigency and approves costs for service by mail / return receipt; contact Clerk for details of the mail payment process. 2. The Court ALLOWS the motion to extend time and service by mail must be made no later than August 31, 2022 and the returns no later than September 30, 2022. 3. The Court will consider the request for transfer after return of service. So Ordered. Dated 8/9/22. Notice mailed 8/9/22. Judge: Wat, Hon. Joshua		

Case Disposition

Disposition	Date	Case Judge
Active		

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4. On 8-31-22, the plaintiff provided the summons and complaint to the clerk as ordered by the court, and the clerk mailed the summons and complaint to Defendant Jennifer Brooks, pursuant to Rule 4. See Exhibit 1 (for copy of the summons served).
5. Therefore, on 8-31-22, the plaintiff served process on Defendant Jennifer Brooks. This has been confirmed by the clerk by email. See Exhibit 2.
6. NB: Also, according to Rule 5(b), service by mail is complete upon mailing.
7. Similarly, according to the instructions on the summons, the defendant has 20 days to respond to or defend against the lawsuit. See screenshot of summons below.

Commonwealth of Massachusetts

MIDDLESEX SS. TRIAL COURT OF THE COMMONWEALTH
SUPERIOR COURT DEPARTMENT
CIVIL DOCKET NO. 2021CV02957

Natalie Anderson PLAINTIFF(S),
v. Residence Inn Nashua,
et al DEFENDANT(S)

SUMMONS

THIS SUMMONS IS DIRECTED TO Jennifer Brooks (Defendant's name)

You are being sued. The Plaintiff(s) named above has started a lawsuit against you. A copy of the Plaintiff's Complaint filed against you is attached to this summons and the original complaint has been filed in the Middlesex Superior Court. **YOU MUST ACT PROMPTLY TO PROTECT YOUR RIGHTS.**

You must respond to this lawsuit in writing within 20 days. If you do not respond, the court may decide the case against you and award the Plaintiff everything asked for in the complaint. You will also lose the opportunity to tell your side of the story. You must respond to this lawsuit in writing even if you expect to resolve this matter with the Plaintiff. **If you need more time to respond, you may request an extension of time in writing from the Court.**

How to Respond. To respond to this lawsuit, you must file a written response with the court and mail a copy to the Plaintiff's Attorney (or the Plaintiff, if unrepresented). You can do this by:

- a. Filing your **signed original** response with the Clerk's Office for Civil Business, Middlesex Superior Court, 370 Lowell MA 01852 (address), by mail or in person. **AND**
- b. Delivering or mailing a **copy** of your response to the Plaintiff's Attorney/Plaintiff at the following address: Natalie Anderson, 679 Washington St., #8-206, Attleboro MA 027

Include in your response. An "Answer" is one type of response to a Complaint. Your Answer must include the fact(s) alleged in each paragraph of the Complaint.

8. Similarly Mass.R.Civ.P. 12(a)(1) states:

(a) When Presented. (1) After service upon him of any pleading requiring a responsive pleading, a party shall serve such responsive pleading within 20 days unless otherwise directed by order of the court.

9. It has been over 22 days now that has passed since serving of process on Defendant Jennifer Brooks and there has been no answer or responsive pleading filed with the court by Defendant Jennifer Brooks and no answer or responsive pleading mailed to the plaintiff from Defendant Jennifer Brooks. Similarly, no motion to dismiss or any other motion or pleading has been mailed to the plaintiff by Defendant Jennifer Brooks.
10. Massachusetts courts have consistently ruled that "A party may not flout the twenty-day filing deadline of Mass.R.Civ.P. 12(a)(1)." See *Cicchese v. Tape Time Corp.*, 28 Mass. App. Ct. 72, 75 (1989). See also *Kenney v. Rust*, 17 Mass. App. Ct. 699, 703 (1984).
11. See also green card via the postal service for the Defendant Marriott International Inc. See Exhibit 3.
12. NB: A copy of the Amended Complaint had also been emailed to the defendant's hotel.
13. Also, Defendant Jennifer Brooks has not reached out to the plaintiff to request additional time to respond or defend, and Defendant Jennifer Brooks has not filed any such request with the court either.
14. Rule 55(a) states:
 - (a) Entry: When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter his default.
15. Thus, Rule 55(a) of the Massachusetts Rules of Civil Procedure provides that a defendant failing to answer a complaint in timely fashion shall be defaulted.
16. The rule is explicit that such a disregard of the proper procedures "shall" result in a default. See *Kenney v. Rust*, 17 Mass. App. Ct. 699, 703 (1984).
17. Pursuant to this affidavit and motion, the plaintiff hereby avers that Defendant Jennifer Brooks in this case has failed to plead or otherwise defend as provided by these rules and therefore the clerk must enter default against Defendant Jennifer Brooks.
18. The clerk also confirmed that it is proper to now file this motion to enter default. See Exhibit 4.
19. Please grant the relief requested herein.

Signed under the pains and penalties of perjury.

Respectfully submitted,
/s/ Natalie Anderson
Natalie Anderson

September 22, 2022